

AMENDMENTS TO THE DRAWINGS:

The office action notes that the drawings are objected to under 37 CFR 1.83(a). The office action points out that drawings must show every feature of the invention in the claims. The office action specifically notes that the following elements are not shown:

Short-Bidding Bid Manager, claim 15; Short-Bidding Sale Analyzer, claim 24; Short-Bidding Sale Manager, claim 7; Short-Bidding Sale Reviewer, claims 18, 19, 23, 25; Short-Bidding Bid Manager, claim 15, etc.

The Applicants' patent application employed terms in the claims that were in error. As per the Summary of the Invention, the Brief Description of the Figures, the Detailed Description, and the Figures; it is intended that the "Short-Bidding Bid Manager" is actually the "Bid Manager", the "Short-Bidding Sale Analyzer" is the "Bid Analyzer", the "Short-Bidding Sale Manager" is "Bid Manager", and the "Short-Bidding Sale Reviewer" is the "Bid Reviewer". As such, the Applicants respectfully request basic replacement of the misapplied terms in the claims according to the replacements specified above, rather than modifying the drawings due to this. This request is made since the correct terms are employed throughout the rest of the patent application including the figures and the replacement clearly in no way materially affects the essence of the invention by adding new material. Amendments to the claims that include these replacement terms are presented beginning on page 14.

Drawings in FIG. 1 and FIG. 6 have also been amended by replacing "Sales Executor" with "Sale Executor". The use of both "Sales Executor" and "Sale Executor" was confusing in the original application, so the use of "Sales Executor" has everywhere been replaced with the singular form

only. The attached sheets that follow at the end of this amendment comprise the new drawings for FIG. 1 and FIG. 6 that contain the text "Sale Executor" rather than the original text "Sales Executor".

Finally, Applicants respectfully request amendment of all drawings FIG. 1 through FIG. 7 for the purpose of adding leading lines (arrows) as required by standard patent application drawing procedures. The drawings have in no manner been materially modified except to add the leading lines and to replace the text "Sales Executor" with "Sale Executor". As such, while replacement sheets are included for all drawings at the end of this amendment, modified annotated sheets are not included since the modifications are straightforward. In fact, modifications comprise only the addition of leading lines and their associated numbers, and the simple replacement of "Sales Executor" with "Sale Executor" in only FIG. 1 and FIG. 6.

REMARKS— General

This amendment is in response to the office action by examiner Mr. James H. Zurita, mailed 7/26/2007 for Application No. 10/757,432 originally filed on 1/15/2007, and having confirmation no. 4097.

In general, Applicants would like to emphasize that all requested amendments are of a clarification nature. Applicants believe that the patent office will be compelled to accept the amendments because the invention, in no way, is materially affected. Amendments to the specification (detailed description) and drawings are requested for the purpose of conforming to standard patent application formatting. However, in a few of the amended claims, scope has been narrowed in order to enhance support from the detailed description of Applicants' invention. Amendments are requested to be allowed in order to address objections as well as better clarify various points of the invention. Also, new claims 47 through 50 have modified which claim they are each dependent on, but again, this was meant to achieve a higher level of clarity for concepts and functionality already disclosed. Nevertheless, since modifications to the original claims are extensive in order to achieve the proper level of clarification, all claims 1-25 have been cancelled and claims 26-50 have been added as new. Realize, however, that the new claims 26-50 are simply clarified rewrites of claims 1-25 such that the new claims are the same original claim that is numbered 25 less. Again, Applicants submit that the new claims have in no way been modified to extend the scope of the original invention disclosure submitted to the patent office.

The cancellation of paragraphs [0045] and [0046] in the detailed description is essentially a follow up of the previous office action of April

26. In Applicants' response to that previous office action, Applicants agreed to remove reference to a second invention presented in claims 26 and 27, and as such these claims were cancelled. Paragraphs [0045] and [0046] supported those claims and are no longer necessary in the current patent application.

Drawings in FIG. 1 and FIG. 6 have also been amended by replacing "Sales Executor" with "Sale Executor". The amended patent application should now comprise only references to Sale Executor and no mention of Sales Executor anywhere.

REMARKS— Claim Objections

It has been noted in the office action that Claims 1-25 are objected to because of several informalities.

Specifically, the office action notes that **Claim 1** introduces an Auction Creator. It goes on to say that "It is not clear whether dependent claims that mention Auction Creator refer to the Auction Creator of claim 1 or whether the dependent claims introduce an additional Action Creator(s). Applicants believe that this ambiguity has been caused by the wording of the dependent claims where the term "an Auction Creator" rather than "the Auction Creator" is employed. Claims 4 - 8 have been replaced with new claims 29 - 33 in order to replace the use of "an Auction Creator" with "the Auction Creator" so that it is clear that the same single Auction Creator of the Short-Bidding Auction Manager is referred to.

Specifically, the office action notes that **Claim 5** refers to "...listing an action forever...", and that the term will be interpreted as placing an item on auction until it is sold or taken off. This interpretation was intended by

the Applicants. Claim 5 has been replaced with Claim 30 in order to replace the "...listing an action forever..." with a precise description of when the auction ends. Specifically, the new claim 30 clarifies the end time of the auction with the text, "provides for sellers to create an auction on a specific good to last until the Sale Executor executes a transaction to sell the last item available or until the seller decides to prematurely terminate the auction." A full understanding of the detailed description supports this more precise description of the claim and it matches the stated office action interpretation.

The same paragraph in the office action response where the "forever" interpretation is noted also mentions that Claim 15 refers to "...automatically...", a term which is indefinite in the context of a computer. The Applicants have replaced Claim 15 with Claim 40 by replacing the use of "automatically" with ", without human intervention". This is intended to make it clear that the seller gets the highest rating possible via Bid Manager processing.

Specifically, the office action notes that in **Claim 10**, Sales Executor lacks antecedent basis; the term is introduced in claim 3. Further the term "...than a new modified asking price..." is indefinite. The office action continues by saying that it is not clear whether applicant claims patentable distinction for a new price that is not modified and how this affects the underlying substrate and component. Applicants would like to point out that the "Sale Executor" of claim 1 is the "Sales Executor" of claim 3. Claim 3's employment of "Sales Executor" has been replaced with "Sale Executor" in the constituent new claim 28 amendment. This should be considered to properly introduce "Sale Executor" for Claim 10. Specifically, Claim 10 is now replaced with new Claim 35 using the text

"Sale Executor" replacing the original text "Sales Executor". The indefinite use of "...than a new modified asking price..." is now clarified in the replacement of Claim 10 with the new Claim 35 by saying that the invocation of the Sales Executor only occurs when the new modified asking price is lowered and at no other time.

Specifically, the office action notes that **Claim 13** refers to electronic goods ...that may [?] be uploaded and is indefinite. Applicants have clarified this issue by replacing Claim 13 with Claim 38 which replaces the text "that may be uploaded" with the text "is uploaded".

Specifically, the office action notes that in **Claim 5**, ...an Auction Creator that allows sellers to list their auction on a specific good to last forever... and continues by mentioning that it is not clear how a seller can list [an] auction on a specific good. Applicants have clarified this issue by replacing Claim 5 with the new Claim 30 which replaces "allows sellers to list their auction" with "allows sellers to create their auction".

Specifically, the office action notes that **Claims 1-25** refer to "asking price" or "asking price posted" and will be interpreted as correlating to a seller's posted price in the specifications. Applicants will take no specific action to amend claims with regard to this since the interpretation mentioned by in the office action is intended.

Specifically, the office action notes that **Claims 1-25** contain the label short-bid and it is not possible to identify the metes and bounds of the claims. The office action continues by noting that applicants' paragraph 1 defines Short-bid:

When a bid is less than the price posted, this is known as a "Short-Bid".

The office action continues by noting that by the applicants' definition, short-bids are found in descending auctions. Applicants respectfully request that the patent office recognize that while a Short-Bid was defined in the Applicants' application as being less than the price posted with no further clarification in the defining sentence, that this definition was provided in a very specific auction context also described in paragraph 1. Specifically, paragraph 1 emphasizes the context of an auction where a seller has a good for sale and purchasers place bids for the good (first sentence of paragraph 1). Paragraph 1 did not specifically mention that the bids descend or ascend and that is because bids in this auction may be submitted in any order causing it to sometimes ascend and sometimes descend in the same auction. However, Applicants respectfully request that the patent office recognize that the spirit and theme of the auction invention described in the patent application clearly implies that higher bids are better than lower bids since the theme is that sellers are trying to sell goods and this necessarily implies that they seek the highest value in each sale. Thus, a short-bid is less than the seller's asking or posted price because it isn't high enough to be agreeable to the seller.

Specifically, the office action notes that there does not appear to be correlation between what is being claimed in claim 1 and repeated in the Abstract and paragraph 7. The office action goes on to say that later paragraphs refer, without explanation, to various embodiments. These embodiments appear to be different species of the manager in claim 1. Applicants have amended the Abstract appropriately according to the request in the office action. Applicants, however, do not understand how

claim 1 and paragraph 7 are not correlated since they are identical. Applicants respectfully request more explanation regarding the lack of correlation mentioned in the office action. Regarding later paragraphs referring to, without explanation, to various embodiments, this phrase style emphasizes that, in general, there may be many distinct or identical embodiments of the invention where some or all of the inventive features may be present. Thus, Applicants intend for the phrase "one embodiment of the invention" to be a general phrase to mean either a distinct embodiment or the same embodiment has the described capability. Applicants respectfully request a suggested modification to the employment of this phrase if necessary.

Specifically, the office action notes that **Claim 10** consists of multiple condition statements that lead to invoking a component labeled Sales Executor. It goes on to say that it is not possible to determine the metes and bounds of the claim since it is not clear what action(s) takes place by invoking a component labeled Sales Executor. Claim 10 is replaced with the new Claim 35 which now clarifies that the invocation of the Sale Executor (replacing "Sales Executor") only occurs when the new modified asking price is lowered and at no other time.

Specifically, the office action notes that **Claim 22** containing the term "...for example..." renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. Applicants have replaced Claim 22 with Claim 47 to delete all text beginning with, including, and following "...for example...". This eliminates the indefiniteness caused by this clause. Additionally, "their specific bid" has been replaced with "their specific bid price".

Specifically, the office action notes that **Claim 23** refers to "...reviewing of both active and expired inactive [?] bids separately and together..." and it is not possible to determine the metes and bounds of the claims. Applicants have replaced claim 23 with new claim 48 in order to replace

review of both active and expired inactive bids separately and together
with

a review capability comprising:

a list of active bids with associated bid prices, times, and bidders only;

a list of inactive bids with associated expired or future bid prices, times, and bidders only;

a single list of active bids and inactive bids with associated expired or future bid prices, times, and bidders.

Applicants submit that this clarifies what was indefinite previously. Specifically, Applicants submit that the new Claim 48 is clearly derivable from the detailed description from paragraph 27, discussing time interval based bids resulting in inactive expired and inactive future bids, in combination with paragraph 38 describing bid review of inactive bids.

Specifically, the office action notes that **Claim 24** refers to "what if" analysis of aggregated revenue that is not otherwise mentioned in the disclosures. Applicants have replaced Claim 24 with new Claim 49 in order to rectify the use of terms not mentioned in the detailed description disclosure. However, in entering the new claim 49, Applicants have carefully replaced wording so that it is clear that the claim is deducible from the detailed description. Specifically, the text of claim 24 that says, "that provides "what if" analysis of aggregate revenue for all active bids given a specific lower price, and can provide an analysis with respect to a future point in time" has been replaced with Claim 49's text which says "that provides a list of bids, bid quantity for each bid, and bid price for

each bid, along with chart visualization, in order to facilitate an analysis of how much revenue will be made with the acceptance of specific bids."

Specifically, the office action notes that in **Claims 1-25**, various Short-Bidding Sale [entity] phrases are not identified and described in the specification and drawing. Applicants believe that this issue is corrected in the new claims that replace original claims with the following replacements: as per the Summary of the Invention, the Brief Description of the Figures, the Detailed Description, and the Figures; it is intended that the "Short-Bidding Bid Manager" is actually the "Bid Manager", the "Short-Bidding Sale Analyzer" is the "Bid Analyzer", the "Short-Bidding Sale Manager" is "Bid Manager", and the "Short-Bidding Sale Reviewer" is the "Bid Reviewer".

Specifically, the office action notes in **Claim 1** that the claim states "...properties of an auction in a database when it is created..." and that it is not clear what it refers to. Applicants have clarified it by replacing "when it is created" with "when the Auction Creator creates an auction for the item" in the Claim 1's replacement, new Claim 26.

Specifically, the office action notes that **Claims 1 and 13** contain the term **means for** and would appear to invoke sixth paragraph of 35 USC 112, to recite claim element as a means for performing a specified function. However, the office action continues by saying that the disclosures provide no structural support for the claims and so it is impossible to determine the equivalents of the element as required by 35 USC 112, sixth paragraph. The office action concludes on this topic by saying that for the purposes of the examination, the claims will be interpreted to not

invoke the sixth paragraph. Applicants have replaced claim 1 with new Claim 26 by replacing:

a User Account Manager and associated User Manager user interface that provides the means for buyer and sellers to join an auction website and establish pertinent personal information, wherein joining causes a user account to be created and stored in a User Accounts table (in Auction Database) with a unique user ID, and the user IDs are employed by users when buying and selling;

with

a User Account Manager and associated User Manager user interface with a user interface for purchasing bidders and sellers to register with an auction website and establish pertinent personal account information, wherein registering causes a user account to be created and stored in a User Accounts table (in Auction Database) with a unique user ID, and the user IDs are employed by users when buying and selling;

Applicants believe that this modification is directly supported in the detailed description's paragraph 18 of the patent application.

As for Claim 13's use of **means for**, Applicants have replaced Claim 13 with new Claim 38 by replacing

further comprises an Electronic Good Manager where electronic goods may be stored in an Electronic Good Database, downloaded, and managed, wherein the Auction Creator further provides the means for sellers to list an auction for an electronic good that may be uploaded to this repository.

with

further comprises an Electronic Goods Manager where electronic goods may be stored in an Electronic Goods Database, downloaded, and managed, and the Auction Creator is used to create an auction for an electronic good wherein the electronic good is uploaded to this Electronic Goods Database.

Applicants believe that this modification is directly supported in the detailed description's paragraph 35 of the patent application. When paragraph 35 mentions that the present invention comprises the ability to

sell electronic goods, this directly implies creating an auction using the Auction Creator in the context of the patent application.

Specifically, the office action notes that **Claims 1 and 13** refer to a database and that a database is any aggregation of data. The office action goes on further to say that the term database will be given its broadest reasonable interpretation to include logical and physical aggregations of data. Applicants' agree with this office action statement but note that Applicants employment of a database specifically intended to mean that data is organized into distinct tables that may be relationally queried as in a traditional relational database management system.

Specifically, the office action notes that **claims 2, 14, 19, 20, and 25** refer to bidder when other claims refer to buyers and purchasers. The office action further notes that it is not clear whether applicant claims patentable distinction by using different words, and that the words will be interpreted as synonyms. Applicants note that these terms are intended to be synonyms but that claims have been amended to enhance clarity. All of these synonyms have been replaced with exclusively the use of "purchasing bidder".

Specifically, the office action notes that **claim 7** refers to list[-ing an] auction with no specific price listed. A price (\$\$) is either listed or not listed. Prior Art is interpreted to read on claim 7 where prior art discloses RFQs, or where Prior Art discloses a seller's maximum or minimum price. Applicants respectfully point out that since claim 7 is dependent on claim 1, RFQs cannot be prior art since there is no bidding with an RFQ and no acceptance of a bid price. Applicants also respectfully point out that prior art that discloses a seller's maximum or minimum price is only prior art

if the seller is required to accept a bid price in order to consummate a sale.

Specifically, the office action notes that **claim 9 and 11** refer to "...any or all.." which renders the claims indefinite. Applicants have replaced Claim 9 with new Claim 34 by replacing

further comprises an Auction Editor that allows sellers to modify any or all details of an existing auction, or terminate an auction.
with
further comprises an Auction Editor that allows sellers to modify asking price or terminate an auction

Applicants believe that this modification is very precise and directly supported in the detailed description's paragraph 22 and 23.

As for Claim 11's use of "...any or all...", Applicants have replaced Claim 11 with new Claim 36 by replacing

further comprises an Auction Item Manager that audits any or all salient events on an auction, such as when it was created, when it ended, bid statistics, sales statistics, when it was modified and what was modified.
with
The Auction Item Manager of claim 26 further audits events for an auction including when it was created, when it ended, bid statistics, sales statistics, when it was modified and what was modified.

Applicants believe that this modification is very precise and directly supported in the detailed description's paragraph 24.

Specifically, the office action notes that **Claim 10** consists of multiple conditions that lead to invoking a component labeled Sales Executor. It is not clear what action takes place when the Sales Executor is invoked. Applicants have replaced Claim 10 with new Claim 35 by replacing:

further comprises an Auction Editor allowing modification of any existing auction properties, wherein it will invoke the Sales Executor for all short-bids that become equal or greater than a new modified asking price if the asking price was lowered during auction modification.

With

further comprises an ability to modify any existing auction properties, so that when, and only when, the asking price is lowered, the Auction Editor will invoke the Sales Executor for all short-bids that become equal or greater than the new lowered modified asking price, which results in the Sales Executor executing such short-bids.

Applicants believe that this modification clarifies what action takes place when the Sales executor is invoked when it says, "which results in the Sales Executor executing such short-bids".

Specifically, the office action notes that **Claims 11, 14, and 16** contain "...or..." which renders the claims indefinite. Prior Art will be interpreted to meet the limitation where prior art meets either condition. Applicants have clarified Claim 11's "...or..." clause by replacing Claim 11 with new Claim 36 having a precise list of the events and data audited. Applicants are, however, unable to locate an "...or..." clause in Claims 14 and 16 and request clarification from the patent office on the issue cited.

Specifically, the office action notes that **Claim 13** refers to Electronic Good [singular] Database and Electronic Good [singular] Manager. The office action further notes that Claim 15 refers to Electronic Goods [plural] Repository. The office action says that it is not clear whether applicant claims patentable distinction by using different words. As per the detailed description, only the terms Electronic Goods [plural]Database and Electronic Goods [plural]Manager are introduced. Applicants have replaced Claim 13 with new Claim 38 by replacing "Electronic Good" with

"Electronic Goods" and have replaced Claim 15 with new Claim 40 by replacing "Electronic Goods Repository" with "Electronic Goods Database".

Specifically, the office action notes that **Claims 14-16** refer to Bid Manager. It continues by saying that it is not clear whether these claims refer to the Bid Manager of claim 1 or whether there are multiple Bid Managers. Applicants have clarified this issue by rewriting Claims 14 – 16 that used "a Bid Manager" with new Claims 39 – 41 that employ the term "The Bid Manager".

Specifically, the office action notes that **Claim 22** refers to "...raising the bid a little or a lot during..." rendering the claim indefinite. Applicants have clarified this issue by replacing Claim 22 with Claim 47 which removes this clause.

Specifically, the office action notes that **Claim 23** refers to "...reviewing of both active and expired inactive bids separately and together..." which renders the claim indefinite. Applicants have replaced claim 23 with new Claim 48 in order to replace the text:

review of both active and expired inactive bids separately and together
with
a review capability comprising:
a list of active bids with associated prices, times, and bidders
only;
a list of expired inactive bids with associated prices, times, and bidders only;
a single list of active bids and expired inactive bids with associated prices, times, and bidders.

Applicants submit that this clarifies what was indefinite previously.

REMARKS— Claim Rejections – 35 USC § 102

It has been noted in the office action that “Claims 1-25, as interpreted, are rejected under 35 U.S.C. 102(e) as being anticipated by Gupta (US 7,130,815)”.

Specifically, the office action notes as per **claim 1** that Gupta discloses an apparatus comprising: means for buyers and sellers to join auction website; sellers to post information about a good as well as set the quantity and the asking price for the good; storing the properties of an auction in a database when the auction is created; allowing buyers to set a price for the bid on an item which may be at the asking price or be a short-bid which is less than the asking price and which becomes a contract to buy once submitted; providing the list of short-bid contracts for the seller to review; executing a sale if a bid is at the asking price posted for a good, while it collects and tracks all short-bids as bid contracts no matter how low the price bid is; executing a sale between buyer and seller when a bid is placed at the asking price or when the seller decides to accept a short-bid, wherein executing a sale comprises notification to the buyer and seller that the buyer's submittal of a contract to buy must be executed; sending emails to sellers and buyers constituting the notifications generated; storing the user accounts current auction items, current bids, auction history, and bid history.

The Applicants respectfully request that the patent office be aware that the references of column numbers and line numbers appear to be close to the text meant to be referred to but doesn't appear to be exact. This assessment is based on the images downloaded from the www.uspto.gov website for the Gupta patent. Thus, Applicants' references are likely off

whichever patent text that the Patent Office is using. Applicants' references are based on the Gupta patent images on the website.

The Applicants respectfully request that the patent office recognize that the Gupta patent maintains two important distinctions from the invention submitted by the Applicants. The first distinction has to do with which role of person initiates an auction and the second is the direction that bids go as the auction progresses. These distinctions are observed throughout the Gupta patent and also seen in several of the patent office references within the Gupta patent.

The Gupta patent notes that an auction initiates by the initiation of a consumer (see Col. 2, lines 60-62), not a seller (where Gupta uses the term "distributor" in this case). This is why the Gupta auction disclosure is called a "reverse auction". A common standard auction is initiated by a seller and the seller typically seeks the highest bid in an ascending series of bids in the auction. A reverse auction is initiated by a consumer who seeks the lowest bid that a seller is willing to sell a product to them for. The Gupta patent discloses the consumer initiating auction model with a descending bid structure (Col 2, lines 64-65 and Col 7., lines 15-17). See also the Gupta Patent's claim 1 where Gupta recites, "accepting a request for a specific product from a particular consumer via the Web page over a network; accepting a reserve price for said specific product from said particular consumer". The consumer then publishes a reverse auction with a reserve price when Gupta recites, "distributing said request for said specific product and said reserve price to a set of sellers over the network". The text of claim 1 further describes details of a consumer initiated auction to sellers and concludes in claim 1 with, " if there are multiple offers having an offer price less than to the reserve price presenting to the consumer

the multiple offers sorted in a predetermined order to allow the consumer to select one offer from the multiple offers; consummating a transaction with an offer selected by the consumer if the consumer selects from the multiple offers; and consummating a transaction with an offer having a lowest price from the multiple offers if the consumer does not select from the multiple offers."

The Applicants respectfully request that the Patent Office recognize that the Gupta patent auction model employs a buyer initiated and controlled "lowest bid is best offer" paradigm wherein the Applicants' invention employs a seller initiated and controlled "highest bid is best offer" paradigm. The Applicants also request that the Patent Office recognize that the reserve price of the Gupta patent auction model is a statement of price by the buyer of what maximum price they will buy a product for. Oppositely, the Applicants' invention published asking price is a statement of price by the seller of what minimum price they will sell a product for.

The office action notes as per **claim 2**, that Gupta discloses sending email to sellers and bidders when any salient events occur. While this feature is the same between the Gupta patent and the Applicants' invention, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention claim 2 is actually distinct due to its dependency on the Applicants' invention independent claim 1 (new Claim 26) which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

The office action notes as per **claim 3**, that Gupta discloses managing collection of funds from a buyer's account which is then deposited into a

seller's account. While this feature is the same between the Gupta patent and the Applicants' invention, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention claim 3, now new Claim 28, is actually distinct due to its dependency on the Applicants' invention independent claim 1 (new Claim 26) which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

Auction Creator functions, claims 4-7

The office action notes as per **claim 4**, that Gupta discloses that sellers list their auction on a specific good to last for a specific time interval (see for example, at least Col. 2, line 54-Col. 3, line 3). The Applicants would like to point out that within this reference, the auction begins when a consumer requests a particular product and, thus, it is implied that the consumer sets the predetermined amount of time, although this is not absolutely certain.

The office action notes as per **claim 5**, that Gupta discloses that sellers list their auction on a specific good to last forever. The Applicants would like to point out that within this reference, a discussion of listing an auction is not mentioned so that the description in Col. 2, lines 60-62 must be referred to for a determination of which role actually initiates and, therefore, lists the auction.

The office action notes as per **claim 6**, that Gupta discloses auctions of electronic products. While this feature is the same between the Gupta patent and the Applicants' invention, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention claim 6, now new Claim 31, is actually distinct due to its dependency on the Applicants' invention independent claim 1 (new Claim 26) which is

believed to be distinct from the Gupta patent as per the claim 1 discussion above.

The office action notes as per **claim 7**, that Gupta discloses that sellers list their auction with no specific [?] price listed and the purchasers may offer bids that may only be accepted later by sellers. The Applicants would like to point out that within this reference, a discussion of listing an auction is not mentioned so that the description in Col. 2, lines 60-62 must be referred to for a determination of which role actually initiates and, therefore, lists the auction.

Auction of Electronic Goods, claims 8 and 13

The office action notes as per **claim 8**, that Gupta discloses that sellers list an auction for an electronic good that may be downloaded from a specific location on the web. See, for example, at least references to auctions of paid context as in advertisements, as in Col. 11, lines 1-29. Applicants respectfully submit that the "paid" content such as advertising referred to in the reference falls more in the category of an electronic service. The text of Col. 11, lines 1-29 does not present an electronic goods database where the actual electronic good is stored for subsequent download. Instead the reference discusses a "Product DB" that comprises a catalog of information about real (non electronic) products. Applicants also respectfully submit that Applicants' Claim 8, now new Claim 33, is also distinct due its dependency on Claim 1 (new Claim 26) which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

The office action notes as per **claim 13**, that Gupta discloses storing, downloading and managing electronic goods in databases and sellers list

an auction for an electronic good that may be uploaded to this repository (see at least Col. 10, line 60-Col. 11, line 29 concerning different types of databases). Again, Applicants respectfully submit that while several different distinct databases are presented in the reference, in particular the Product DB, none of these databases including the Product DB store the actual electronic good. The Product DB is merely a catalog of information about real products where it is implied that such products referred to will be physically shipped via post office mail or other delivery service via conventional transportation. Applicants also respectfully submit that Applicants' Claim 13, now new Claim 38, is also distinct due its dependency on Claim 1 (new Claim 26) which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

Auction Editor, claims 9-10

The office action notes as per **claim 9**, that Gupta discloses that sellers modify any or all details of an existing auction, or terminate an auction (see for example, at least Col 3, lines 4-29). Applicants respectfully submit that the reference does not actually disclose auction modification. Instead it emphasizes seller bid price acceptance at any time which is not modification of the auction details. Applicants' Claim 9, now new Claim 34, is supported by Applicants' paragraph 22 in the detailed description. Thus, Applicants' Claim 34 intends to cover the case where the seller's asking price is modified up or down, and yet, no offer is accepted due to this modification. Applicants respectfully submit also that a comprehensive understanding of the detailed description allows for also modifying the current quantity of items being sold at auction as well as the end time of the auction. The Gupta reference does not disclose these features. The Gupta reference does disclose how an auction

automatically terminate based on some rules. However, the intended theme of termination in the Applicants' invention is that the auction is terminated directly by the seller prematurely with no sale transaction or transactions consummating. Applicants believe this theme of premature termination with no sale or transaction is not present in the Gupta reference. This theme is supported in Applicants' detailed description paragraph [0023]. Applicants also respectfully submit that Applicants' Claim 34 is also distinct due its dependency on Claim 1 (new Claim 26) which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

The office action notes as per **claim 10**, that Gupta discloses modifying existing auction properties and comparing a modified posted price with a short-bid price. (See for example, at least Col. 3, lines 20-32). As mentioned in the above paragraph, Applicants respectfully submit that the Gupta reference does not actually allow for auction modification but rather offer acceptance. While Gupta does disclose comparing a reserve price, this price is a reserved minimum purchase price posted by a purchaser and is compared with seller bids. Applicants' invention employs a posted seller price which is compared with potential buyer bids. Applicants' Claim 10, now new Claim 35, is also distinct due its dependency on Claim 1 (new Claim 26) which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

Auction Item Manager

The office action notes as per **claim 11**, that Gupta discloses auditing any or all salient events on an auction, such as when it was created, when it

ended, bid statistics, sales statistics, when it was modified and what was modified (See, for examples, at least Col. 11, lines 10-25 and other references to history and audits). While this feature is the same between the Gupta patent and the Applicants' invention, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention claim 11, now new Claim 36, is actually distinct due to its dependency on the Applicants' invention independent claim 1 (new Claim 26) which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

Bid Manager and Short-Bidding Bid Manager, claims 14-16

The office action notes as per **claim 14**, that Gupta discloses keeping audit trails on every bidder and seller transaction tracked by bidder and seller individually, wherein bidders and sellers may also log their rating of the other party's execution of the transaction (as, in Col. 10, line 60-Col 11, line 20). While this feature is the same between the Gupta patent and the Applicants' invention, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention claim 14, now new Claim 39, is actually distinct due to its dependency on the Applicants' invention independent claim 1 (new Claim 26) which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

The office action notes as per **claim 15**, that Gupta discloses rating a seller at the highest rating when the transaction is for an electronic good that was stored. See at least references to detailed analysis of buyers and sellers, as in Col. 11, lines 1-24. Applicants respectfully submit that the reference neither presents the use of electronically stored goods nor subsystem processing of rating at the highest rating when the sale of an

electronic good is consummated. This is because Gupta discloses a Product DB that comprises only product information about real products and does not contain the products themselves as would be the case for electronic products or goods. Applicants' patent application presented subsystem processing of a transaction rating on a downloadable electronic good sale because the electronic good may be downloaded immediately after electronic payment and the sale is completed. This is unlike sales transactions with real goods where the buyer must wait for the good to physically arrive in post office mail and rate not only timeliness of arrival but the condition of the good relative to what the seller advertised. With electronically downloadable goods, these issues are not present. Thus, delivery of the electronic good via download implies that the seller fulfilled all obligations as best as possible. Applicants also respectfully submit that Applicants' Claim 15, now new Claim 40, is also distinct due its dependency on Claim 14 (new Claim 39), in turn dependent on Claim 1 (new Claim 26), which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

The office action notes as per **claim 16**, that Gupta discloses auditing every bid and sale, as in Col. 11, lines 8-24. While this feature is the same between the Gupta patent and the Applicants' invention, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention claim 16, now new Claim 41, is actually distinct due to its dependency on the Applicants' invention independent claim 1 which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

Short-Bidding Sale Reviewer and Bid Reviewer

The office action notes as per **claim 18**, that Gupta discloses reviewing all bids using different display filters and sorting criteria. See references to history and audits, as in Col. 10, lines 1-24. The reference does disclose a sorted list of the offers in Col. 9 line 64. However, Applicants respectfully submit that there does not seem to be a mention of the use of a filter in the reference. Applicants would like to point out that the sorting criteria in Applicants' patent application Claim 18, now new Claim 43, is intended to be a capability with multiple sorting options and/or even total custom filtering and sorting where sorting by bid price is only one sort option. Gupta discloses the sorted list as though it is a built in capability with no ability to sort by anything else. Gupta does not disclose filtering bid lists by any attributes. Applicants' patent application presents a filter based on a bid's active status (active or inactive) in paragraph 29 of the detailed description. Paragraph 34 presents a filter based on bidder or seller. Paragraph 27 presents a simple editbox for filtering and sorting expressions based on information fields of bids. Applicants also respectfully submit that Applicants' Claim 18, now new Claim 43, is also distinct due its dependency on Claim 1 (new Claim 26), which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

The office action notes as per **claim 19**, that Gupta discloses selecting and deselecting bidders and accepting bids to execute a sale (see at least references to winners, as in Col. 3, lines 12-18). Applicants respectfully point out that while Gupta discloses a mechanism for a buyer to select a seller bid, it may be only a single bid (See Gupta's Abstract). Applicants' patent application instead emphasizes throughout the patent application

that sellers may sell more than one of the same good at the same time. Thus, the Applicants' Bid Reviewer provides a sophisticated user interface for selecting and deselecting multiple bids as in Applicants' drawing FIG. 4. Applicants also respectfully submit that Applicants' Claim 19, now new Claim 44, is also distinct due its dependency on Claim 1 (new Claim 26), which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

The office action notes as per **claim 20**, that Gupta discloses providing a display filter and sorter based on bidder history and their [bidder? Filter? Sorter?] transaction ratings by others [bidders?]. See references to history and audits, as in Col. 10, lines 1-24. Applicants respectfully submit that the reference does not appear to present filtering and sorting based on bidder history or transaction ratings as in the Applicants' patent application Claim 20. Gupta does disclose a notion of approved product distributors in Col. 10, line 12, but there appears to be no explicit mention that "approved" is equivalent to a filter based on history or transaction ratings. There is no discussion of assembling filters and sorting criteria as presented in the Applicants' patent application. Applicants also respectfully submit that Applicants' Claim 20, now new Claim 45, is also distinct due its dependency on Claim 1 (new Claim 26), which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

The office action notes as per **claim 25**, that Gupta discloses selecting and deselecting bidders and update the analysis (see, for example, at least Col. 10, lines 15-19). Applicants respectfully submit that the reference contains no discussion of analysis. Specifically, Applicants patent application presents analysis for the purpose of determining how much total revenue will be made by accepting a specific subset of all bids

before actually accepting such bids (See Applicants' drawing FIG. 5). This is very important in the Applicants' patent application and key to Claim 25, now new Claim 50, because the Applicants' patent application emphasizes auctions with many more than one (1000s or even 10,000s would be considered normal) of the same item in the auction. Thus, such an analysis is very important prior to acceptance wherein employing such an analysis does not have any value for the Gupta's patent because only one item gets transacted per auction. Applicants also respectfully submit that Applicants' Claim 25, now new Claim 50, is also distinct due its dependency on Claim 24 (new Claim 49), in turn dependent on Claim 21 (new Claim 46), in turn dependent on Claim 1 (new Claim 26), which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

Bid Creator

The office action notes as per **claim 21**, that Gupta discloses that buyers offer their bid or bids for a specific time interval, wherein offered bids during their specified time interval are considered active, and are considered inactive otherwise, wherein currently inactive bids that have already been active are considered expired. See at least references to auction closings, as in Col. 12, lines 3-6. Applicants have defined active bids and inactive bids in their patent application detailed description's paragraph 27. The later half of the paragraph says:

Such embodiments recognize four distinct categories of bids: active bids (short-bids which are eligible for acceptance during their specified time interval), inactive expired bids (short-bids which were active but which are past their end time), inactive future bids (bids which will be active when the time reaches their start time), and successful bids (bids which have been accepted and have executed the corresponding sales transaction).

Applicants respectfully request that the patent office recognize that the reference in the Gupta patent in Col. 12, lines 3-6 does not discuss any of these concepts. Applicants also respectfully submit that Applicants' Claim 21, now new Claim 46, is also distinct due its dependency on Claim 1 (new Claim 26), which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

The office action notes as per **claims 24 and 24**, that Gupta discloses providing "what if" analysis of aggregate revenue for all active bids given a specific lower price, and providing analysis with respect to a future point in time and reviewing bids and bid history (see at least references to detailed analysis of buyers and seller behavior, as in Col. 11, lines 15-20). Applicants make the assumption that the office action meant "claims 24 and 25". Gupta does refer to using historical information for detailed analysis of buyer and seller behavior in Col. 11, lines 17-18. However, there is no mention that this analysis is employed for sales revenue determination as emphasized in Applicants' Claim 24, now new Claim 49. Additionally, as discussed in the previous paragraph of this response, Gupta does not disclose a concept of inactive bids. Finally, Applicants respectfully submit that Applicants' Claims 24 and 25, now new Claims 49 and 50, are also distinct due their dependency on Claim 1 (new Claim 26), which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

REMARKS— Claim Rejections – 35 USC § 103

The office action notes as per **claim 12**, that Gupta discloses the use of auction history and that Gupta does not specifically disclose a user interface to review the information. The office action then takes an Official Notice that it was old and well known at the time of applicants' invention to review data, including auction history. It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Gupta to include a user interface screen to review auction history. While this extension to Gupta patent is obvious, the Applicants respectfully request that the Patent Office recognize that the Applicants' invention claim 12, now new Claim 37, is actually distinct due to its dependency on the Applicants' invention independent claim 1 (new Claim 26) which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

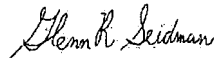
The office action notes that **claim 17** is rejected on the same grounds as claim 12. Applicants respectfully request that the Patent Office recognize that Applicants' invention claim 17, now new Claim 42, is actually distinct due to its dependency on the Applicants' invention independent claim 1 (new Claim 26) which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

The office action notes as per **claim 22**, that Gupta does not specifically disclose that buyers customize what their specific bid will be at specific times during the auction, for example, raising the bid a little or a lot during the last 5 minutes of the auction. The office action notes that this is disclosed by Montgomery (paragraph 111). The office action further notes that combining Gupta and Montgomery would have been obvious at the

time that the patent application was filed. Applicants believe that the office action meant paragraph 11 of the Montgomery reference. In the Montgomery reference, does appear to disclose bid changes, however, the text seems to indicate that bids are always higher than the previous bid. Applicants respectfully request that the patent office recognize that as per Applicants' patent application detailed description paragraph 27 and drawing in FIG. 3, that any bid price and quantity may be entered for a time interval including one that is lower than current highest bid or even lower than the previous bid submitted. Applicants believe that this is distinct and non-obvious over Montgomery and Gupta. Additionally, Applicants respectfully request that the Patent Office recognize that Applicants' invention claim 22, now new Claim 47, is actually distinct due to its dependency on the Applicants' invention independent claim 1 (new Claim 26) which is believed to be distinct from the Gupta patent as per the claim 1 discussion above.

Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

By 
Dr. Glenn R Seidman
Tel. (650) 678-7147